

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

PATRICIA L. MCINTYRE, SP 2016-SP-042 Appl. under Sect(s). 8-914 and 8-917 of the (dogs), and a reduction in minimum yard requirements based on an error in building location to permit an accessory storage structure to remain 0.9 ft. from a side lot line. Located at 12740 Milan Ln., Fairfax, 22033, on approx. 10,119 sq. ft. of land zoned R-3 (Cluster), WS and HC. Springfield District. Tax Map 45-4 ((3)) (33) 1. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on August 3, 2016; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. This is the last lot in the subdivision and adjacent to a much larger church site. The shed backs up to the church, and it is not affecting any houses. It has been there for a long time, and was there before the applicant purchased the property. It will not create any negative impact on the neighbors.
3. The Board concludes that the Section 8-914 standards have been met with respect to the shed.
4. With respect to the keeping of dogs, this is a closer call, and is unusual in that it is a permanent approval for a situation that is somewhat undefined, both in duration and the number of dogs. It is somewhat more intense than just having four dogs.
5. There is concern because of a complaint, and the fire department's findings of the unsanitary conditions, which is a conceivable problem.
6. There is a staff recommendation of approval. Staff is reporting that the violations have been cleared, except for the shed. The Board adopts the rationale in the staff report.
7. There is one letter in opposition and some letters in support.
8. The Board has tried to balance what staff has suggested with some way of evaluating the performance of this operation over time. With a five-year time limit, the performance of this operation could be evaluated after that period of time. If everything is good and the operation works, the fostering of the dogs could continue, which is something we want to encourage in the county.
9. The applicant has read, understands, and concurs with the proposed development conditions.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. The error exceeds ten (10) percent of the measurement involved, or
- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- F. It will not create an unsafe condition with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.
- H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

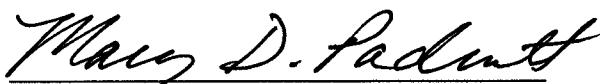
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

1. This approval is granted to the applicant, Patricia L. McIntyre, only, and is not transferable without further action of the Board, and is for the location indicated on the application, 12740 Milan Lane, and is not transferable to other land.
2. This special permit is granted only for the keeping of animals (dogs), and the location of the accessory storage structure (shed) located on the plat titled, "Greenbriar, Lot 1, Block 33, Section 8," prepared by Andrew N. Hornbeck, Merestone Geomatics, LLC, dated October 7, 2015, as revised through April 19, 2016, and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit shall be made available to all departments of the County of Fairfax upon request.
4. This approval shall permit a maximum of four adult dogs (greater than six months in age) at the application property at any one time.
5. The yard used by the dogs shall be cleaned of animal debris and papers changed in any indoor puppy kennels on a daily basis.
6. At no time shall any dogs be left outdoors unattended for longer than 30 minutes at a time.
7. The approval is granted for a period of five years; the applicant can reapply for a special permit amendment to extend the approval.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Mr. Beard seconded the motion, which carried by a vote of 4-1. Mr. Hammack voted against the motion. Mr. Smith was not present for the vote. Mr. Byers was absent from the meeting.

A Copy Teste:



Mary D. Padrutt, Deputy Clerk
Board of Zoning Appeals